

Deficiency Progress Report- Update 2

Received March 1, 2010

To complete the evaluation process, Cal/EPA requires the CUPAs to submit Deficiency Progress Reports that explain the CUPA's progress towards correcting the identified deficiencies. Deficiency Progress Reports are due every 90 days after the evaluation date until all deficiencies have been corrected.

CUPA: Placer County Health Department

Evaluation Date: May 6 and 7, 2009

Evaluators:

Cal/EPA & OSFM: Jennifer Lorenzo

CalEMA: Jack Harrah

Date Update 1 submitted: November 2, 2009

Deficiencies corrected with Update 1: 5, 6, 7, and 9

Next Update due date: February 8, 2010 (extended to March 1)

Date Update 2 submitted: March 1, 2010

Deficiencies corrected with Update 2: 1

Next Update due date: May 9, 2010

Deficiency 1: The CUPA did not conduct a self-audit of its Unified Program in fiscal years (FY) 06/07 and 07/08.

Preliminary Corrective Action(s): At the end of each state fiscal year, the CUPA will conduct a self-audit. Annual self-audits must be completed by September 30 of each year and maintained on file for at least five years.

By September 30, 2009, the CUPA will submit its FY 08/09 Self Audit to Cal/EPA and a copy shall be included with the first progress report due November 10, 2009.

CUPA Corrective Action, (Update 1): A self-audit has been conducted for fiscal year 2008/09. A copy of the audit is attached to this report. A self-audit will be conducted annually from this time forward and audits will be maintained on file for at least five years.

CalEPA Response: The state appreciates the CUPA's effort to correct this deficiency. However, the CUPA's FY 08/09 self-audit is missing the following required elements: (1) narrative summary of activities in permitting, enforcement, and single fee; and (2) the annual review and update of their fee accountability program. Therefore, this deficiency remains in the process of being corrected. Enforcement is briefly discussed as one of the CUPA's own deficiencies and the need for CUPA staff to consistently identify

informal/formal enforcements on inspection reports. CUPA may discuss its enforcement activities, including both informal and formal actions, with regards to all Unified Program elements. On the next deficiency progress report, due February 10, 2010, the CUPA will submit a revised FY 08/09 self-audit report to include the missing elements or an addendum to the FY 08/09 self-audit report to include the missing elements.

CUPA Corrective Action, (Update 2): Please see the attached self-audit

CalEPA Response: Based upon the submitted Fiscal Year 08-09 CUPA Self Audit, Cal/EPA considers this deficiency corrected.

Deficiency 2: Based on the Annual Single Fee Summary Reports, for FY 05/06, the CUPA should have billed and collected \$24,234, while only collecting \$23,115.75; for FY 06/07, the CUPA should have billed and collected \$24,642, while only collecting \$22,849; and for FY 07/08, the CUPA should have billed and collected \$38,010, while only collecting \$14,461.

In addition:

- The CUPA did not assess the appropriate California Accidental Release Prevention (CalARP) state surcharge within the last three FY's. The CUPA began assessing and collecting the CalARP state surcharges in 2005 and has increasingly assessed and collected the surcharges from its CalARP businesses within the last three FY's. However, according to the CUPA's fee schedule, dated April 2, 2009, the CUPA assessed a state surcharge called "acute haz waste" for \$69 per CalARP business.
- b. The CUPA did not collect approximately 60% (\$18,711.35) of the CUPA oversight state surcharge assessed in FY 07/08.
- The CUPA assessed approximately 130%, 120%, and 150% of the underground storage tank (UST) state surcharge in FY 05/06, 06/07, and 07/08, respectively. According to the CUPA's April 2, 2009, fee schedule, the CUPA has been assessing a state surcharge for the UST program as follows: \$16 for one tank; \$31 for two tanks; \$47 for three tanks; \$62 for four tanks; \$78 for five tanks; \$94 for six tanks; and \$109 for seven tanks. Therefore, the CUPA has not been assessing the appropriate state surcharge for its UST facilities, which should be \$15 per tank. In addition, the CUPA did not collect about 60% (\$4,857.50) of the UST surcharges assessed in FY 07/08.

Preliminary Corrective Action(s): On the first deficiency progress report, due November 10, 2009, the CUPA will report the status of its FY 09/10 state surcharge collection to Cal/EPA.

In addition, the CUPA will assess and submit all uncollected state surcharges for fiscal years 05/06, 06/07, and 07/08.

With the first deficiency progress report due November 10, 2009, the CUPA will submit one of the following:

- A plan for correctly assessing and submitting all applicable state surcharges for fiscal years 05/06, 06/07, and 07/08.

Or

- A financial audit showing why the fees were not required to be assessed and submitted for fiscal years 05/06, 06/07, and 07/08.

CUPA Corrective Action, (Update 1): As noted on the Summary of Findings, the Placer County CUPA is now assessing the appropriate state surcharges. Sample invoices were submitted at the time of the audit.

Fiscal year 2007/2008 was a transition year for our billing cycles. Placer County had previously billed on a calendar year cycle and was transitioning to a fiscal year billing cycle. In doing so, a ½ year bill was issued to facilities in January 2008. By the end of the fiscal year, many facilities had either not yet paid their bills and/or were questioning the change of billing cycle.

Placer County is currently on an annual billing cycle where invoicing occurs in May, with permits expiring June 30. Due to the timing of the payments from our CUPA trusts that occurs in late July for the fourth quarter of the prior fiscal year, the fourth quarter payment typically includes the majority of the surcharge for the upcoming fiscal year.

As of the date of this report, Placer County has collected \$18,876 of the \$19,944 invoiced for FY 09/10 right-to-know surcharges. \$16,284 of this was remitted to the state for fourth quarter FY 08/09.

CalEPA Response: This deficiency remains outstanding. On the next progress report, due February 10, 2010, the CUPA will provide: (1) a plan for correctly assessing and submitting all applicable state surcharges for FY 05/06, 06/07, and 07/08; or (2) a financial audit showing why the fees were not required to be assessed and submitted for FY 05/06, 06/07, and 07/08.

CUPA Corrective Action, (Update 2): The CUPA is conducting a comprehensive review and will have further information for the next update.

CalEPA Response: Please keep us up to date on your progress with the next quarterly report.

Deficiency 3: The CUPA is not accurately tracking and reporting information requested on the Annual Single Fee, Inspection, and Enforcement Summary Reports 2, 3, and 4.

Preliminary Corrective Action(s): Beginning May 7, 2009, the CUPA staff will review the instructions for the Annual Summary Reports 2, 3, and 4. Instructions may be found on the Cal/EPA Unified Program Web site at <http://www1.calepa.ca.gov/CUPA/Publications/>.

By September 6, 2009, the CUPA will develop and implement a process to ensure that the information required on the Annual Summary Reports 2, 3 and 4 are obtained and reported as accurately as possible. For any discrepancies, explanations should be noted as footnotes at the end of the report and/or summarized in the annual self-audit.

By September 30, 2009, the CUPA will submit its Summary Reports 2, 3, and 4 to Cal/EPA.

CUPA Corrective Action, (Update 1): Placer County has converted to Envision Connect and is working diligently with our IT personnel and with Decade Software in an attempt to generate reports that will be able to provide the correct information required for the CUPA to State reports. We are currently participating in ongoing training sessions with Decade Software regarding proper configuration to provide accurate reports.

Inspection staff is being trained in proper documenting of Class I, Class II and minor violations and documentation of formal/informal enforcement. Some information may require an additional year of information gathering to be fully correct due to staff training prior to the evaluation and development of necessary data points on the reports.

Completed Summary Reports 2, 3, & 4 for fiscal year 2008/09 were submitted to Cal EPA on September 21, 2009.

CalEPA Response: This deficiency is in the process of being corrected. On the submitted Summary Report 4 for FY 2008-2009, the total number of Informal Actions is less than the number of facilities with violations. The total number of informal actions should be greater than or equal to the number of facilities with violations. Informal actions include Notice of Violations, phone calls, emails, and any other communication required to obtain RTC. On the next progress report, due February 10, 2010, please submit a plan outlining how the CUPA will track and report all informal enforcement actions in the future.

CUPA Corrective Action, (Update 2):

Placer County's Plan of Action is as delineated in our first progress report:

Placer County has converted to Envision Connect and is working diligently with our IT personnel and with Decade Software in an attempt to generate reports that will be able to provide the correct information required for the CUPA to State reports. We are currently participating in ongoing training sessions with Decade Software regarding proper configuration to provide accurate reports.

Inspection staff is being trained in proper documenting of Class I, Class II and minor violations and documentation of formal/informal enforcement. Some information may require an additional year of information gathering to be fully correct due to staff training prior to the evaluation and development of necessary data points on the reports.

Our Plan of Action is to continue working with Decade Software to improve the accuracy of the CUPA to State report generated by this program. We are continuing to work with staff by reminding them to properly document both violation types and formal/informal enforcement.

The summary report referred to above was from the fiscal year 2008/2009 and was submitted prior to our first corrective action report. The fiscal year 2009/2010 reports should be significantly more accurate.

CalEPA Response: Cal/EPA looks forward to reviewing your annual reports in September, 2010. Please submit an additional copy to the evaluation team lead.

Deficiency 4: The CUPA's Inspection and Enforcement (I&E) Program Plan does not contain some required elements. The I&E Program Plan is missing the following:

- a. Identification of all available enforcement options. For example, the administrative enforcement order (AEO) is not included as a formal enforcement option for all the program elements. Also, the red tag for the UST program is not identified, but has been used by the CUPA.
- b. A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination.

Preliminary Corrective Action(s): By November 10, 2009, the CUPA will revise it's I&E Program Plan to include all the required elements. Once finalized, submit a copy to Cal/EPA.

CUPA Corrective Action, (Update 1): The I & E Program Plan is currently being revised and will be included with our next quarterly update, due February 10, 2010.

CalEPA Response: This deficiency remains in the process of being corrected. Please submit the I & E Program Plan on the next deficiency progress report, due February 10, 2010.

CUPA Corrective Action, (Update 2): The inspection portion of our I & E plan has been completed and is attached to this submittal. The enforcement portion of the plan is still under revision. Some enforcement options will require approval from the Director of Environmental Health and our County Counsel. Once completed and approved, the complete plan will be submitted to you.

CalEPA Response: The inspection portion of the I&E Plan appears to be complete. Please keep us up to date on your progress with the enforcement portion of your I & E plan in the next quarterly report.

Deficiency 8: The CUPA does not currently collect all of the information shown on the revised UST forms, and is not requiring UST facility owner/operators to complete the new Unified Program Consolidated Forms (UPCF) A, B, and D as part of their annual inspections. Therefore, the CUPA does not have current information on the UST facility to determine if the owner or operator has met the monitoring requirements contained in the new monitoring plan (UPCF-D).

Preliminary Corrective Action(s): By May 7, 2010, the CUPA will verify that all UST facilities are up-to-date with the new forms.

One way to gather the information is to mail out the new UPCF's for UST's during the next round of operating permit renewals or billing cycle or provide the new UPCF's to the owner/operators during the annual inspections (whichever is earlier).

Prior to conducting the annual UST inspection, the CUPA will review all paperwork submitted for a Permit to Operate and ensure that the tank and piping systems, and the monitoring methods used are sufficiently described and are appropriate for the system. If the forms are incorrect, the CUPA may either correct the forms or have the facility owner/operator resubmit new forms with the correct information.

CUPA Corrective Action, (Update 1): CUPA Staff are now requesting that the new Unified Program Consolidated Forms for UST's are completed prior to or during annual UST inspections on all facilities.

SWRCB Response: The CUPA is making good progress towards correcting this deficiency. On the next progress report, please submit for two UST facilities, completed and approved UPCF's A, B, and D.

CUPA Corrective Action, (Update 2): Please see attached forms.

SWRCB Response: The CUPA has submitted two sets of UPCF's. Unfortunately, the monitoring plan for Rocklin Gas is incomplete (Section V needs to specify in-line-leak-test frequency; Section VI needs to specify single- or double-walled tank). For the 7-Eleven #32867, the Facility ID # is not noted. On the next progress report, please submit revised monitoring plans for Rocklin Gas and 7-Eleven #32867.

Deficiency 10: The Placer County Emergency Operations Plan (Annex E being the Hazardous Materials Area Plan) has not been reviewed and updated in the past three years. The CUPA should have certified to Cal EMA in 2007 that a review of those sections of the overall plan and the Annex pertinent to hazardous materials was performed and that any necessary revisions were done.

Preliminary Corrective Action(s): The CUPA will provide updates on the revision of the area plan with the quarterly reports to Cal/EPA. The first progress report is due on November 10, 2009.

Upon completion of the review and revisions, the CUPA will send a certification to Cal EMA that this has been done.

CUPA Corrective Action, (Update 1): These requirements have been forwarded on to our county OES for review and comment. PCEH is working with OES to correct these deficiencies as OES updates their Emergency Operations Plan.

CalEMA Response: Please document you and your OES's progress with the emergency plan update with the next quarterly report.

CUPA Corrective Action, (Update 2): Initially, Placer County OES had agreed to work on the requirements of deficiencies #10 and #11. At the end of 2009, we were informed that OES did not feel it was their responsibility and asked the CUPA to work on these deficiencies. The update of the Area Plan has been assigned to staff and they are currently working on these deficiencies. We hope to have them corrected by the next update in May 2010.

Cal EMA Response: Please document you and your OES's progress with the emergency plan update with the next quarterly report.

Deficiency 11: Annex E to the Placer County Emergency Operations Plan (the Hazardous Materials Area Plan) did not include a summary reporting form. This form must identify the location of each area plan element specified in title 19 of the California Code of Regulations, sections 2722-2728, whether it is in Annex E or in the main body of the Emergency Operations Plan.

Preliminary Corrective Action(s): The CUPA will submit a copy of the summary reporting form to Cal EMA at the time the certification of area plan review from deficiency 10 is submitted.

CUPA Corrective Action, (Update 1): These requirements have been forwarded on to our county OES for review and comment. PCEH is working with OES to correct these deficiencies as OES updates their Emergency Operations Plan.

CalEMA Response: Please document your and your OES's progress with the emergency plan update with the next quarterly report.

CUPA Corrective Action, (Update 2): Please see comments for deficiency #10 (above).

Cal EMA Response: Please document you and your OES's progress with the emergency plan update with the next quarterly report.

Deficiency 12: The CUPA is not obtaining business plans from all businesses subject to the business plan program.
This was identified as a deficiency in the July 2006 evaluation.
Specifically, agricultural handlers are neither regulated under the business plan program nor properly exempted from the provisions of this program. These agricultural handlers are not being inspected under the provisions of the business plan program.

Preliminary Corrective Action(s): By May 7, 2010, the CUPA will develop a plan to evaluate which agricultural handlers are subject to the business plan program and take steps to either regulate these businesses or properly exempt them from the program. The CUPA should document progress in correcting this deficiency with each quarterly report. The first progress report is due on November 5, 2009.

CUPA Corrective Action, (Update 1): The Agricultural Handler Program is being developed at this time. The Placer County Agricultural Commissioner does not want to be involved in the regulation of Agricultural Handlers, but has provided lists of handlers to Placer County Environmental Health. Contact letters and questionnaires are being developed to mail out to handlers.

CalEMA Response: Please keep us up to date on your progress with the next quarterly report.

CUPA Corrective Action, (Update 2): The priority for the Agricultural Handler Program has been set back due to the Aboveground Petroleum Storage Act (APSA) program. The staff member assigned to the Ag Handler Program is also the lead for the APSA program. Placer County is exploring the option of exempting our Agricultural Handlers (within certain parameters) and we are currently contacting other counties that have exempted their Agricultural Handlers to look for guidance in this direction. This will be our first step. A more detailed plan will be provided to Cal EPA with our May 2010 update.

Cal EMA Response: Please keep us up to date on your progress with the next quarterly report.